

APPROVED

VIRGINIA RACING COMMISSION

MINUTES

JUNE 21, 2006

VIRGINIA CROSSINGS RESORT
1000 VIRGINIA CENTER PARKWAY
GLEN ALLEN, VIRGINIA

In Attendance

Commission Members:

Mark T. Brown, Chairman
Peter C. Burnett, Vice Chairman
David C. Reynolds
Clinton Miller
Dr. George W. Rimler

Commission Staff:

Stanley K. Bowker, Executive Secretary
Kimberly M. Carter, Office Administrator
Dr. C. Richard Harden, Commission Veterinarian
David S. Lermond, Jr., Director of Pari-mutuels
Peggy E. Mason, Assistant Operations and Enforcement Manager
Joseph M. Roney, Director of Operations and Enforcement
Marvin A. Sniegion, Director of Finance & Planning
Dennis West, Operations Manager

Attorney General's Office:

Teresa C. Griggs

Chairman Brown called the monthly meeting to order at 9:30 a.m.

The minutes of the June 2, 2006 meeting were approved.

Acting on the recommendation from Mr. Bowker, the Commission approved Colonial Downs' July simulcasting schedule.

Chairman Brown said the Commission needed to schedule the July meeting for the 18th, 19th or 21st. After considerable discussion it was decided to schedule the next meeting on Friday, July 21, 2006 at 1:00 p.m. at the New Kent County Administration Building.

Iain Woolnough, Vice President and General Manager of Colonial Downs provided an update on the 2006 live thoroughbred meet.

There being no further business, the monthly meeting of the Commission was adjourned.

Chairman Brown called to order the informal fact-finding conference involving the application for an advance deposit account wagering license for AmericaTab.

After being sworn, J. Todd Bowker, General Manager of AmericaTab, provided an overview of AmericaTab and its operations. He stated AmericaTab is principally owned by racetracks who offer a number of websites allowing them to market to their core customers. He added that while AmericaTab does not offer television to support its account wagering system, it does provide streaming video on 26 tracks.

He added unlike the other current Virginia account wagering licensees, AmericaTab will be the first licensed account wagering company that can offer to Virginia customers access to almost all racetracks that offer their signals for wagering.

He further stated AmericaTab is the first account wagering company to offer an integrated race replay system where its customers can review historical races and is planning to soon offer a mobile streaming video product for Smart Phone users.

He added AmericaTab offers an excellent data mining system that allows a customer to look at his/her wagering history and slice it up by type of wager, racetrack or other patterns. Finally, he stated AmericaTab will handle approximately \$250 million nationwide in 2006 and expects to handle approximately \$10 million in Virginia.

Mr. Bowker was asked if AmericaTab had any problems with the recommendations made in the Staff Report.

Mr. Bowker stated he had two issues.

The first issue involved the recommendation that since the Agreement with Colonial Downs and the horsemen is being made retroactive to January 1, 2006 that AmericaTab should also pay the licensing fee from that point. He said since it is a licensing fee and since AmericaTab's license, if approved, would only be effective being this day.

The second issue involved the bond requirement. He said AmericaTab believes there are other ways to accomplish what the Commission requires and would like the opportunity to work that out.

Vice Chairman Burnett said those two issues can be taken up in closed meeting.

Following questions from the Commissioners, Chairman Brown then offered the following motion:

“In accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia, I move that the Commission go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Commission, and consultation with legal counsel employed or retained by the Commission regarding specific legal matters requiring the provision of legal advice by such counsel regarding the application of AmericaTab for a license to conduct advance deposit account wagering in the Commonwealth.”

The motion was seconded by Vice Chairman Burnett and was unanimously approved.

The Commission came out of the closed meeting at 12:57 p.m. and Chairman Brown offered the following resolution:

“Whereas, the Virginia Racing Commission has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of The Virginia Freedom of Information Act; and

“Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by this Commission that such closed meeting was conducted in conformity with Virginia law;

“Now, therefore, be it resolved, that the Virginia Racing Commission certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Commission in the closed meeting.”

The motion was seconded by Vice Chairman Burnett and the vote was as follows: Burnett, aye; Rimler, aye; Reynolds, aye; Miller, aye and Chairman Brown, aye.

Chairman Brown said one of the concerns of the Commission involves the agreement among Colonial Downs, the horsemen and AmericaTab. The Agreement expires in June 2007 and a full year's agreement will be due at the time the license renewal application is submitted by December 1, 2006. He suggested the parties needed to start working on that immediately. Mr. Bowker said he understood.

As to the bond requirement, Chairman Brown asked Executive Secretary Bowker to explain the Commission's approach. Secretary Bowker said the Commission would like to continue its current bond process for the balance of 2006 and between now and December 1, 2006 the Commission staff will meet with the account wagering companies to see if another system can be put in place.

As to the licensing fee, Vice Chairman Burnett said the Commission believes it is appropriate to go back to January 1, 2006 to begin collecting the licensing fee.

Commission Miller then moved the Commission approve the advance deposit account wagering license for AmericaTab with the conditions outlined in the Staff Report. Vice Chairman Burnett seconded the motion and it was unanimously approved.

The informal fact-finding conference was adjourned.

Chairman Brown called to order an informal fact-finding conference involving a request from Colonial Downs to amend its security plans for the satellite wagering facilities.

Colonial Downs President Ian Stewart said Colonial Downs would like to have the option of hiring private security firms to handle the security at the satellite facilities. Colonial Downs has always used off-duty law enforcement officers and while he said he expects in some cases that will continue but in others he would like to have the option.

After considerable discussion Vice-Chairman Burnett moved that the request be approved to use private security personnel in not more than two facilities subject to the recommendations made in the Staff Report and to the extent that the two facilities chosen are subject to an order from this Commission requiring the use of law enforcement personnel that those requirements of the order be amended to include private security personnel. Mr. Stewart said he was okay with the limit of two locations.

The motion was seconded by Chairman Brown and unanimously approved.

There being no further business the monthly meeting was adjourned at 1:21 p.m.

Working Session

Following the monthly meeting, the Commission began a Working Session that continued through Thursday, June 22, 2006.

Commissioner Reynolds asked for input from the Commissioners on any issues or concerns they had on the distribution of marketing funds. He reported that the Commission has received six responses to the RFP and his committee will begin reviewing those request next week. The Commissioners asked that copies of the response be sent to them as soon as possible.

Chairman Brown then offered the following motion:

“In accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia, I move that the Commission go into closed meeting for the purpose of consultation with legal counsel on legal issues facing the Commission.” The motion was seconded and unanimously approved.

In closed meeting, Ms. Griggs reviewed Virginia’s Freedom of Information Act and Administrative Process Act. and how they apply to Commissioners. She also reviewed a memorandum she had provided for a previous Commission on *ex-parte* communications.

Returning from closed meeting, Chairman Brown made the following motion:

“Now, therefore, be it resolved, that the Virginia Racing Commission certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Commission in the closed meeting.”

The motion was seconded by Vice Chairman Burnett and the vote was as follows: Burnett, aye; Rimler, aye; Reynolds, aye; Miller, aye and Chairman Brown, aye.

Following the closed meeting, Mr. Bowker led a discussion on the first draft of a Governance Manual being developed by the Commission. A number of additions and changes were made and the Commission will meet again early this fall to complete the final document. The Commissioners also have begun a review of a Code of Conduct.

The Commission discussed the structure of the monthly meetings and following that discussion the following was moved, seconded and unanimously approved:

1. Effective with the July meeting, items will be placed on the agenda only at the request of interested parties, i.e. Commissioners, staff, licensees, horsemen and other industry stakeholders. Items not included on the agenda will not be discussed but will be carried over to the next meeting;
2. Requests for agenda items and all materials to be considered by the Commission must be in the hands of the Executive Secretary by the Monday the week before the meeting (or nine days) prior to the meeting;
3. Materials are not to be sent directly to Commissioners;
4. No materials are to be brought to the meetings except for support of materials already on file with the Commission. The Commission will not consider nor will it accept substantive documents and other materials that are not illustrative or otherwise supportive of materials already submitted.

Chairman Brown offered the following motion:

“In accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia, I move that the Commission go into closed meeting for the purpose of discussion or consideration of the assignment, appointment, performance or salary of specific public officers, appointees or employees of the Commission”

The motion was seconded by Vice Chairman Burnett and was unanimously approved.

Following the closed meeting, Chairman Brown offered the following resolution:

“Whereas, the Virginia Racing Commission has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of The Virginia Freedom of Information Act; and

“Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by this Commission that such closed meeting was conducted in conformity with Virginia law;

“Now, therefore, be it resolved, that the Virginia Racing Commission certifies that, to the best of each member’s knowledge, only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Commission in the closed meeting.”

The motion was seconded by Vice Chairman Burnett and the vote was as follows: Burnett, aye; Rimler, aye; Reynolds, aye; Miller, aye and Chairman Brown, aye.

Having voted in the majority at the January 18, 2006 meeting of the Commission, Commissioner Rimler moved that the decision to split the Executive Secretary/Senior Commonwealth Steward position into two positions following the 2006 thoroughbred meet be reconsidered. The motion was seconded and unanimously approved.

Commissioner Rimler then moved to postpone a decision to split the Executive Secretary/Senior Commonwealth Steward position into two positions until the retirement of Mr. Bowker as Executive Secretary in 2008. The motion was seconded and unanimously approved.

There being no further business, the working session was adjourned.